




J. Craig Whitley
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION

IN RE:

B AND B GROUP DEVELOPMENT, LLC

DEBTOR.

Case No. 14-40430

Chapter 11

**ORDER GRANTING RELIEF FROM THE
AUTOMATIC STAY TO BANK OF THE OZARKS**

THIS MATTER coming on for hearing on Bank of the Ozarks Motion to Dismiss Debtor's Case as a Bad Faith Filing, or, In the Alternative, Motion for Relief from Stay [Dkt. No. 20] on October 16, 2014, and Bank of the Ozarks being represented by Constance L. Young of Womble, Carlyle, Sandridge and Rice and Christina Ackerman of Bank of the Ozarks, and Debtor being represented by William S. Gardner, and the Office of the Bankruptcy Administrator being represented by Alexandria P. Kenney and the Court having considered the arguments of counsel, the evidence presented at the hearing and the entire record before the Court makes the following Findings of Fact and Conclusions of law:

Jurisdiction

1. The Debtor filed its voluntary Chapter 11 petition (the "Petition") on August 29, 2014 (the "Petition Date").

2. This matter is a core proceeding pursuant to 28 U.S.C. § 157 and the Court has jurisdiction pursuant to 28 U.S.C. § 151, 157 and 1334.

Findings of Fact

1. On or about May 30, 2008, Debtor executed and delivered to First National Bank of Shelby, North Carolina, a/k/a First National Bank (“FNB”) a promissory note in the original principal amount of \$2,500,000.00 (collectively, with all extensions, renewals and modifications the “Note”). A copy of the Note is attached hereto as Exhibit A.

2. As a condition of the loan evidenced by the Note and as an inducement to FNB to make the loan, Debtor executed and delivered a Real Estate Mortgage dated May 30, 2008 (the “Mortgage”) and recorded on June 9, 2008 in the office of the Florence County Clerk of Court in Book 190, at page 0001. The Mortgage encumbers the property, which has a street address of 318 Royal Street, Florence, South Carolina (the “Property”).

3. Bank of the Ozarks is the successor by merger to First National Bank of Shelby.

4. The Debtor is indebted to Bank of the Ozarks in amount of at least \$2,990,332.76 as set forth in the Order for Judgment and Decree of Foreclosure entered in the Court of Common Pleas for the County of Florence, South Carolina on the Note, including advances by Bank of the Ozarks for payments of taxes, insurance and water bills.

5. The value of the Property is \$1,375,000.00

6. Significant deferred maintenance exists on the Property and the Property does not generate sufficient cash flow to pay the operating expenses.

7. The Debtor will not be able to make adequate protection payments to Bank of the Ozarks.

Conclusions of Law

1. Cause exists under §362(d)(1) of the Bankruptcy Code for relief from the automatic stay because the Debtor is unable to make adequate protection payments.
2. Grounds exist under §362(d)(2) of the Bankruptcy Code for relief from the automatic stay because there is no equity in the Property and the Debtor cannot propose a confirmable Plan of Reorganization.
3. The automatic stay in effect as to the Property and the rights and remedies of Bank of the Ozarks shall be and hereby is lifted to allow Bank of the Ozarks to pursue those rights and remedies.
4. The stay of this Order under Bankruptcy Rule 4001(a)(3) is hereby waived.

This Order has been signed electronically.
The judge's signature and court's seal
appear at the top of the Order

United States Bankruptcy Court